

## CHAPTER 2

### FUNDING

**2-1 Scope.** This Chapter provides policy/guidance for the planning, programming, budgeting, execution and reporting of environmental resources to comply with environmental laws, environmental regulations, E.O.'s and DODIs/DODDs. Funding for the Installation Restoration (IR) and Munitions Response (MR) Programs is addressed in Chapter 18, Section 4.1 (IR) and in Chapter 19, Section 4.1 (MR).

**2-1.1 General Guidance.** The Environmental Quality (EQ) program funding encompasses requirements for Environmental Compliance (EC), P2, Conservation (CN), Radiological Controls (RADCON) and Range Sustainment (RS) as related to Environmental costs on Ranges. It is the Navy's policy to fully fund compliance with all applicable Federal, State and local Laws; Executive Orders; and associated implementing rules and regulations in accordance with reference [\(a\)](#) and [\(b\)](#).

Although maintenance-repair, maintenance of sewage treatment works, replacement of bag-house filters, maintenance of continuous monitoring equipment, etc. may have an environmental compliance impact; routine maintenance and repair projects are usually not eligible for EQ program funding. In general, the criteria to differentiate between an environmental requirement and a maintenance/repair/operations requirement can be summarized as follows:

- The INITIAL acquisition or modification of a facility, appurtenance or piece of equipment to meet a NEW legal requirement is considered a valid "environmental" requirement. The requirement should be properly programmed/budgeted in the EPRWeb system.
- Initial and subsequent environmental permit applications, studies, plans, etc. required by an environmental legal driver, and not exclusively by operational, maintenance, and repair requirements of existing facilities and appurtenances, are also valid environmental program funding requirements and therefore appropriate for environmental funding and should also be properly programmed/budgeted in the EPRWeb system.
- The subsequent operation, modification/upgrade (for reasons other than to meet a NEW law/regulatory standard), maintenance, repair, and eventual replacement of the facility or equipment, is not considered a valid environmental requirement.
- Cultural and historical preservation resources are not eligible to be funded using EC resources but should be entered into EPRWeb for tracking. Requirements are to be resourced through appropriate BSO to the Chief of Naval Operations (CNO) (N46).
- Bird Air Strike Hazard (BASH) program requirements are not eligible for conservation resources.
- For all projects that meet the applicable funding threshold for Military Construction (MILCON) the appropriate funding source is MILCON. These construction project requirements must be addressed through the MILCON programming process.

a. **Working Capital Fund (WCF) Operations.** The cost of environmental, natural resources and cultural resources compliance shall be part of each activity's operating budget. WCF activities shall

build into their operating budgets and rates any costs associated with complying with applicable environmental laws and regulations.

## **2-1.2 References.**

(a) SECNAVINST5090.8A, Policy for Environmental Protection, Natural Resources, and Cultural Resources Programs;

(b) DODI 4715.6, Environmental Compliance.

**2-1.3 Environmental Readiness Program Requirements Database.** EPRWeb is an optimized online database used to define all programming for the Navy's EQ requirements. EPRWeb records data on project expenditures, and provides immediate, web-based access to requirements entered by the Activity, Region, and BSO locations, as well as from CNO (N45).

a. BSOs hold the responsibility for ensuring all EQ requirements are entered into the EPRWeb and that they are available for review/approval by the chain of command by the dates specified in the Guidance letter that is provided annually by CNO (N45). This database is the source document for determining all programming and budgeting requirements of the EQ Program. EPRWeb is also the tool for providing the four Environmental Readiness Level (ERL) capabilities used in producing programming and budgeting requirements for the various processes within the Planning, Programming, Budget, and Execution System (PPBES). At a minimum CNO (N45) will support funding for all applicable Federal, State and local laws and regulations, E.O.'s, DODIs/DODDs and applicable international and overseas requirements.

**2-1.4 Environmental Readiness Levels.** Four levels of Navy environmental readiness have been established, along with the specific types and scope of the capabilities required to provide each level. These ERL enable capability based programming and budgeting of environmental funding and facilitate required capability versus cost trade-off decisions. ERL4 is considered the absolute minimum level of environmental readiness capability required to maintain compliance with applicable legal requirements. The definitions of ERL1 through ERL4 follows:

### **a. Environmental Readiness Level 4:**

- Supports all actions specifically required by law, regulation or E.O. (DOD Class I and II requirements) just in time.
- Supports all DOD Class 0 requirements related to a specific statute such as hazardous waste disposal, permits, fees, monitoring, sampling and analysis, reporting and record keeping.
- Supports recurring administrative, personnel and other costs associated with managing environmental programs that are necessary to meet applicable compliance requirements (DOD Class 0).
- Supports DOD policy requirement to comply with overseas FGS and Overseas Environmental Baseline Guidance Document (OEBGD).

- Supports minimum feasible Navy executive agent responsibilities formally designated by OSD, participation in Office of the Secretary of Defense (OSD) sponsored inter-department and inter-agency efforts, and OSD mandated regional coordination efforts.

**b. Environmental Readiness Level 3:**

- Supports all capabilities provided by ERL4.
- Supports existing level of Navy EA responsibilities, participation in OSD sponsored inter-department and inter-agency efforts, and OSD mandated regional coordination efforts.
- Supports proactive involvement in the legislative and regulatory process to identify and mitigate requirements that will impose excessive costs or restrictions on operations and training.
- Supports proactive initiatives critical to the protection of Navy operational readiness.

**c. Environmental Readiness Level 2:**

- Supports all capabilities provided under ERL3.
- Supports enhanced proactive initiatives critical to the protection of Navy operational readiness.
- Supports all Navy and DOD policy requirements.
- Supports investments in pollution reduction, compliance enhancement, energy conservation and cost reduction.

**d. Environmental Readiness Level 1:**

- Supports all capabilities provided under ERL2.
- Supports proactive actions required to ensure compliance with pending/strongly anticipated laws and regulations in a timely manner and/or to prevent adverse impact to Navy mission.
- Supports investments that demonstrate Navy environmental leadership and proactive environmental stewardship.

**2-1.5 DOD Environmental Quality Project Classes.** DODI 4715.6 Environmental Compliance classifies environmental quality projects into four categories:

- Class 0 projects are those necessary to cover the administrative, personnel and other costs associated with managing environmental programs that are necessary to meet applicable compliance requirements or which are in direct support of the military mission. Recurring class 0 costs consist of manpower; training; supplies; hazardous waste disposal; operating recycling activities; permits; fees; testing; and monitoring/sampling and analysis; reporting; record keeping; and compliance self assessments.

- Class I projects are those necessary to correct situations which are currently out of compliance with established regulatory deadlines. This class also includes projects necessary to correct situations not currently out of compliance but susceptible to noncompliance if projects remain not implemented within the current program year. This class includes overseas projects necessary to alleviate the human health threats, threats to ongoing operations or necessary to comply with applicable treaties and agreements.
- Class II projects are those in which facilities will be out of compliance at a specific, impending published deadline if action is not taken. If not accomplished by the deadline, projects become Class I.
- Class III projects are those needed to meet DOD, ASN (I&E), CNO and/or BSO goals related to environmental protection, P2, cost effectiveness, environmental quality, or enhancement initiatives. Law does not mandate these projects, but their accomplishment demonstrates Federal leadership and goodwill.

**2-1.6 Fees and Taxes.** As a rule, Federal facilities are subject to reasonable service charges or fees related to the administration of environmental enforcement programs imposed by Federal, State, and local agencies. Service charges related to the discharge of effluent into bodies of water, the discharge of air emissions into the atmosphere, underground storage tanks (USTs), and the storage, treatment, transportation, and disposal of solid waste are among the types of charges that may be billed to an installation. However, Congress has generally not provided for the payment of taxes by Federal installations and activities. It is therefore important to distinguish between those charges that are fees and those that, although not called taxes, have the character of taxes. Activities must make this distinction before payments are made. Disbursing authorities shall consult with command or REC counsels when an agency first presents a fee or service charge. Final determinations regarding the legality of new fees shall be formulated in consultation with DOJ at the headquarters level in appropriate cases.

In general, a command will examine charges presented as fees or for services to determine whether:

- The charge in question is imposed on all regulated entities without discriminating against Federal agencies; or
- The charge fairly approximates the cost to the State or local authority of making the services available; or
- The charge does not generate revenues over and above the cost of the relevant programs it supports.

Negative answers to any of these inquiries suggest that the charge is a tax rather than a fee or service charge, thus obliging the U.S. to determine whether to contest it. Commands should refer questions about these charges to command counsel or REC counsel.

Navy Organizations questioning a charge shall make clear to the authority demanding payment that the delay for review is not a reflection of Navy resistance to regulatory action, but is necessary because of legal issues that require resolution before payment may be made lawfully.

If a regulatory agency refuses to issue an environmental permit to an activity because the activity has not paid an assessment pending legal review, the activity shall immediately notify CNO (N45) via the chain of command, and their REC.

**2-1.7 Citations and Fines.** Commands shall report immediately any citation by a regulatory agency for an alleged violation of any substantive or administrative requirement or any attempt to levy a fine against a Navy facility. Commands shall process the citation by the procedures of appendix B.

**2-1.8 Economic Analysis.** When practical and appropriate, commands shall analyze the economic consequences before deciding among options for complying with environmental requirements. For example, it may be more efficient to contract out or transfer operations rather than fund pollution control projects. In other cases, it may be more economical to replace equipment as opposed to retro-fitting to meet requirements. Long term pollution prevention options take precedence over short term controls wherever practical.

**2-1.9 Budgeting for Environmental Compliance.** Navy organizations shall report Annual Environmental budget requirements on ASN (FM&C)) Exhibits PB-28 and Exhibits PB-28B, per (ASN (FM&C)) guidance.

**2-1.10 Funding Base Operations.** The cost of environmental, natural resources and cultural resources compliance shall be part of each activity's operating budget. Navy Organization's shall program, budget, and execute compliance requirements in the same manner as other traditional base support costs. Host activities are encouraged to charge tenant commands which use facility services for the full cost of the service as it relates to assuring legally mandated environmental compliance for day-to-day work.

**2-1.11 Weapon Systems and Platforms.** The Navy funds alterations to existing Navy ships, aircraft or weapon systems and platforms for the purpose of meeting environmental compliance requirements in the Fleet Modernization Program (FMP) or Engineering Change Proposal (ECP) program, and also uses funds programmed by the applicable CNO resource sponsors. The appropriate hardware systems command budgets for special studies, equipment, and RDT&E for new environmental compliance requirements.

**2-1.12 Limit on Use of Environmental Funds.** Naval activities shall use funds allocated for environmental and natural resources protection *only* for those purposes, consistent with applicable (ASN (FM&C)) regulations.

**2-1.13 Other Environmental Liabilities (OEL).** The Chief Financial Officer Act of 1990 (expanded by the Government Management Reform Act of 1994 and the Federal Financial Management Improvement Act of 1996) requires that federal agencies follow federal accounting standards and prepare an annual financial report that includes audited financial statements. As part of this process, financial liabilities in general, and environmental liabilities in particular, are of interest to the U.S. Congress and the public.

On November 15, 2005, the ODUSD (I&E) issued "Guidance for Recognizing, Measuring and Reporting Environmental Liabilities Not Eligible for Defense Environmental Restoration Program Funding." This document is intended to further assist Department of Defense personnel in appropriately recognizing Other Environmental Liabilities. In addition, DOD Financial Management Regulation

Volume 4, Chapter 13, revised June 2005, prescribes the accounting policy for measuring, recognizing, and disclosing environmental liabilities and procedures for recording these environmental liabilities.

- a. COMNAVFACENGCOM shall utilize the U.S. Navy Environmental Portal inputs to provide data on liability triggers, overall coordination, and management for the annual Other Environmental Liabilities Sustainment Process.
- b. BSOs shall monitor and provide data on liability triggers, overall coordination, and management for the annual Other Environmental Liabilities Sustainment Process.
- c. Regional Commanders/COs of Shore activities shall ensure timely reporting of data on liability triggers, overall coordination, and management for the annual Other Environmental Liabilities Sustainment Process.